



OFFICE OF
INSURANCE COMMISSIONER

In the Matter of

MICHAEL R. LEAVERTON,

Resident Licensee

OAH Docket No. 2006-INS-0019

OIC Order No. D07-129

**CONSENT AND ORDER LEVYING A
FINE**

Pursuant to RCW 34.05.060 and WAC 10.08.230(2) (b), the parties hereby stipulate to the entry of the following Stipulation and Order to resolve this matter:

Michael R. Leaverton, ("licensee") hereby stipulates to the payment of a fine in the total amount of \$7,500, with \$3,750 suspended as further set forth below. Provided licensee complies with this Order he will remain an agent in good standing in Washington State. Based on the following facts which are hereby acknowledged, licensee further stipulates and agrees that he will comply with Washington insurance laws and regulations in the future.

CONCLUSIONS OF FACT

1. Michael R. Leaverton ("Licensee") is a licensed agent authorized to sell life and disability insurance in Washington.
2. OIC entered an Order Revoking License in October, 2006 revoking this license. OIC, by Washington statute, cannot unilaterally revoke an agent's license or impose a fine without the opportunity for a hearing. Pursuant to RCW 48.04.040, Licensee objected to the OIC's order and timely requested an administrative hearing which, pursuant to RCW 48.04.020, meant that the Order Revoking License was stayed during the balance of this proceeding and Licensee maintained his license throughout.
4. In response to an inquiry by OIC, a joint response dated April 6, 2005 was received from both licensee Michael R. Leaverton and his wife, licensee Barbara C. Leaverton. In their response, the licensees admit that they solicited Washington residents, in Washington, to purchase annuities that were not approved for sale in this State but were approved for sale in Idaho.

8. Michael Leaverton traveled to Idaho for the purpose of signing applications for some of these non-approved annuities. He admits that he and his wife personally drove some Washington residents to Idaho for this purpose, while the balance drove themselves to Idaho to sign the applications in the presence of Licensee.

9. The licensee sold non-approved Allianz annuities to two Washington residents within the State of Washington. These applicants did not travel to Idaho. These applicants were the licensee's parents. The applications for both falsely state that they were signed in Coeur d' Alene, Idaho.

10. The licensee admits that he was the agent who sold every one of the Allianz policies on which his wife, Barbara Leaverton, signed as sales agent. She was generally not present during the completion of many of the applications. The licensee admits that he was not currently appointed to sell these annuities and that, because his wife was so appointed, she signed the applications, many of which were for consumers she had never met.

11. Most of the non-approved Allianz annuities sold to Washington residents by licensee and his wife were delivered within Washington.

12. From August, 2004 through May, 2005, the licensee sold five annuities from ING USA Annuity and Life Insurance Company to Washington customers. The licensee admits that he was not currently appointed to sell these annuities and that, because his wife was so appointed, she signed the applications, many of which were for consumers she had never met.

CONCLUSIONS OF LAW

A.) The above conduct by licensee violated RCW 48.30.010 in the following ways:

- i. By engaging in the marketing and sale of annuities not approved for sale in Washington;
- ii. By transporting or arranging for Washington residents to transport themselves out of state in order to complete the purchase of nonapproved annuities;
- iii. By misrepresenting the place applications were signed in order to conceal the sale of nonapproved annuities to Washington residents in Washington; and
- iv. By misrepresenting that his wife was the selling agent when he made sales of annuities which he was not currently appointed to sell.

B.) The licensee violated RCW 48.30.040 in the following ways:

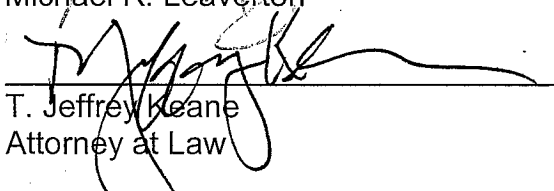
- i.) By initially denying, but later admitting without compulsion during an OIC investigation that he had:

- a.) Marketed nonapproved annuities to Washington residents in Washington;
 - b.) Instructed and assisted at least two Washington consumers to falsely claim they had signed annuity applications in Idaho when in fact they were signed in Washington; and
 - ii. By falsely claiming that Barbara Leaverton had been the selling agent for annuities which he had sold and which he was not appointed to sell.
- D.) The licensee knowingly violated several provisions of this code as set forth above, violating RCW 48.17.530(1)(b).

The licensee has engaged in practices that are not in accord with the standards set out in the Insurance Code of Washington. Accordingly, the licensee enters this Stipulation to the following Order voluntarily and with the understanding that such fine is in lieu of any suspension or revocation of the licensee's license for such conduct. The facts described above, and the fact of this stipulation, will be considered by the Commissioner in the event of any future administrative actions regarding licensee. Licensee agrees and understands that if the conditions set forth in the Order are not fully met, the Insurance Commissioner may revoke his license pursuant to RCW 48.17.540(3).

Signed this 30th day of April, 2007.


Michael R. Leaverton


T. Jeffrey Keane
Attorney at Law

Counsel for Licensee

Office of the Insurance Commissioner


Andrea L. Philhower
OIC Staff Attorney

Counsel for the Office of the Insurance
Commissioner

ORDER

IT IS ORDERED that pursuant to RCW 48.17.530, and the foregoing Stipulated Facts and Law and Consent to Order that:

1. Payment of Fine. A fine in the amount of \$7,500 (Seven-Thousand Five-Hundred Dollars) is assessed against Mr. Leaverton. \$3,750 (Three-Thousand Seven-Hundred and Fifty Dollars) of this amount is suspended on condition that Mr. Leaverton cooperates fully with OIC in any further actions relating to this matter. The unsuspended portion of the fine shall be paid in four equal \$937.50 (Nine-Hundred Thirty-Seven Dollars and Fifty Cents) installments: one 90 days after entry

of this order, and another each 90 (ninety) days thereafter, with the last payment being made on or before the first anniversary of the entry of this order by the administrative law judge. In the event the fine or any installment thereof goes unpaid as agreed, the Commissioner may elect to revoke the license of licensee and the fine will be recoverable in a civil action brought on behalf of the Insurance Commissioner by the Attorney General.

2. Previous Order Of Revocation Vacated. Order Revoking License No. D06-302 is vacated and of no force or effect.

3. Future Actions. Mr. Leaverton shall not engage in any of the insurance practices outlined above or in similar practices hereafter. Mr. Leaverton will cooperate with OIC in any further actions relating to this matter.

ENTERED AT TUMWATER, WASHINGTON, this 30th day of April, 2007.

MIKE KREIDLER
Insurance Commissioner

By



JOHN F. HAMJE
Deputy Insurance Commissioner
Consumer Protection Division

ORDER TERMINATING PROCEEDINGS

This matter having come before Administrative Law Judge Brian O. Watkins, pursuant to the foregoing Stipulation and Order and the Administrative Law Judge deeming himself fully advised in the premises, it is hereby ordered pursuant to RCW 48.17.530 and 48.17.560 that OAH Docket Number D 06-120 is hereby closed and dismissed as settled.

SIGNED AND ENTERED THIS 4th day of April, 2007.



Brian O. Watkins
Administrative Law Judge
Office of Administrative Hearings